THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27798 OF 2005

Between:

M/s Nikitha Restaurant and Bar

... Petitioner

AND

The Commissioner of Police Hyderabad

Basheerbagh, Hyderabad

& others.

... Respondents

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27798 OF 2005

ORDER:

This writ petition is filed to declare the action of the respondents in interfering and preventing the petitioner from running Bar and Restaurant in providing entertainment by way of live band/Orchestra with male and female singers in the petitioner's premises, as arbitrary, illegal and violative of the Judgment of the Apex Court and consequently permit him for conducting the Orchestra/Live

Band with male and female singers in his premises.

The learned counsel for the petitioner submits that the petitioner has obtained licence on 01.07.2005 from the Excise authorities to vend liquor in retail in the Bar in accordance with the provisions of the A.P. Excise Act and Rules and running the same. Apart from the sale of liquor, the petitioner is also serving food. Being the public place of amusement, the petitioner is required to take licence from the Commissioner of Police, Hyderabad; and that the petitioner obtained licence for establishment of a public entertainment (category II) on 17.09.2004 vide L.&O/A2/832/2002 and renewed the same.. The learned counsel for the petitioner further contended that the said licence granted for establishment of public place of amusement subject to certain special conditions authorizing the petitioners to transact the liquor business from 10 AM to 11 PM under the relevant excise rules and condition No.12 goes to show that the licence shall not make use of the loud speaker or radio except under the special circumstances in such public places of halting which is situated on the joint of four roads, three roads or cross roads and which has no footpaths in front of it. As per condition No.11 no person, who has established a public place of halting shall use the loud speaker in the public place halting during the other timings than those, which have been permitted by the Commissioner of Police, Hyderabad city. It is not known whether any permission has been given to the petitioners either to have a loud speakers or live band/Orchestra to be played with men and women. But however, it is stated that the petitioner has made a representation on 14.11.2005 for permitting him to have a live band/Orchestra with male and female singers.

The learned counsel for the petitioner further submits that a batch of writ petitions has been disposed of on 09.11.2005 directing the first respondent to consider and pass appropriate orders on the representations made by the petitioners therein. As the respondents have so far not complied with the orders, the writ petitioners preferred a batch of writ appeals which were disposed of by a Division Bench of this Court, on 23.12.2005, directing the respondents to pass appropriate orders on the representations of the applicants and the applicants were allowed to carry on their activities in accordance with the licences granted and that if the appellants feel aggrieved by the orders which may be passed by the first respondent, then they shall be free to avail

appropriate legal remedy.

Having regard to the facts and circumstances of the case, and following the order of the Division Bench of this Court, the writ petition is disposed of directing the first respondent to consider and pass appropriate orders on the representation made by the petitioner for allowing him to have live band/Orchestra in his Bar and Restaurant with male and female singers in accordance with the licence issued to him. Further, the respondents shall also not interfere with the activity, if the petitioner uses live band/Orchestra with men and women singers. However, if other activities are carried out in the Bar and Restaurant, the authorities concerned shall be free to take appropriate action in accordance with law. If the petitioners feel aggrieved by the orders, which may be passed by the first respondent, then he shall be free to avail appropriate legal remedy.

With the direction indicated above, the writ petition is disposed of in terms of the Judgment of the Division Bench in a batch of writ appeals. No costs.

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28-12-2005

Kvrm